

MATTHEW R. REED, State Bar No. 196305  
CAROLINE E. WILSON, State Bar No. 241031  
LISA K. NGUYEN, State Bar No. 244280  
JENNIFER M. MARTINEZ, State Bar No. 262081  
MICHAEL D. K. NGUYEN, State Bar No. 264813  
TRACY D. RUBIN, State Bar No. 267420  
WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation  
650 Page Mill Road  
Palo Alto, CA 94304-1050  
Telephone: (650) 493-9300  
Facsimile: (650) 565-5100  
Email: mreed@wsgr.com

CINDY LIOU, State Bar No. 252161  
ASIAN PACIFIC ISLANDER LEGAL OUTREACH  
1121 Mission Street  
San Francisco, California 94103  
Telephone: (415) 567-6255  
Facsimile: (415) 567-6248  
Email: cliou@apilegaloutreach.org

*Attorneys for Plaintiff*  
JANE DOE

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JANE DOE,	)	CASE NO.: 3:10-cv-05154-MEJ
	)	
Plaintiff,	)	<b>PLAINTIFF'S ANSWER TO</b>
	)	<b>COUNTERCLAIMS</b>
v.	)	
	)	
GIUSEPPE PENZATO, an individual; and	)	
KESIA PENZATO, an individual,	)	
	)	
Defendants.	)	

Plaintiff Jane Doe ("Plaintiff") for her answer to Giuseppe Penzato and Kesia Penzato's  
(collectively, "Defendants") Counterclaim ("Counterclaim") avers as follows:

**ANSWER TO COUNTERCLAIMS**

**INTRODUCTION**

1. Plaintiff admits that she filed a Complaint with this Court on November 12, 2010, alleging, in part, that she was the victim of human trafficking and that the Penzatos committed various wage and hour violations relating to her employment.

**JURISDICTION AND VENUE**

2. Plaintiff admits the allegations of paragraph 2.

3. Plaintiff admits that this court has supplemental jurisdiction pursuant to 28 U.S.C. §1367.

4. Plaintiff admits that venue is proper pursuant to 28 U.S.C. §1391 and that all of the parties reside in this District. Plaintiff denies the remaining allegations of paragraph 4.

**FACTUAL ALLEGATIONS COMMON TO ALL COUNTS**

5. Plaintiff admits that she was a childhood friend of Kesia Penzato. Plaintiff denies the remaining allegations of paragraph 5.

6. Plaintiff admits that, prior to August 2009, the Penzatos offered her employment in their household and agreed to assist her in traveling to the United States. Plaintiff admits that prior to traveling to the United States, the Penzatos promised Plaintiff that she would be permitted time to engage in personal activities while in their employ. Plaintiff lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 6 and on that basis denies the allegations.

7. Plaintiff lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 7 and on that basis denies the allegations.

8. Plaintiff admits she attached an employment agreement executed by herself and Mr. Penzato to her Complaint in this litigation. Plaintiff lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations of paragraph 8 and on that basis denies the allegations.

9. Plaintiff denies the allegations of the first paragraph 9.



1 22. Plaintiff denies the allegations of paragraph 22.

2 23. Plaintiff denies the allegations of paragraph 23.

3 24. Plaintiff denies the allegations of paragraph 24.

4 25. Plaintiff denies the allegations of paragraph 25.

5 **PRAYER FOR RELIEF**

6 Plaintiff denies that Defendants are entitled to any relief whatsoever.

7 **JURY TRIAL DEMAND**

8 Plaintiff admits that Defendants have demanded a jury trial.

9 Plaintiff denies any allegations to which she has not specifically responded.

10 **AFFIRMATIVE DEFENSES**

11 Plaintiff hereby incorporates by reference the allegations contained in her Complaint  
12 (Dkt. No. 1), and further states the following affirmative defense:

13 **FIRST AFFIRMATIVE DEFENSE – UNCLEAN HANDS**

14 Plaintiff hereby incorporates by reference the allegations contained in paragraphs 1-55,  
15 84-105, 116-123, and 128-161 of her Complaint (Dkt. No. 1). Defendants are not entitled to  
16 relief by reason of unclean hands. Among other things, Defendants failed to enter into any of the  
17 agreements herein in good faith and obtained Plaintiff's assent by means of fraud, force, and  
18 coercion as alleged in Plaintiff's Complaint.

19 **SECOND AFFIRMATIVE DEFENSE – ESTOPPEL**

20 Defendants failed to inform Plaintiff of the confidentiality of any conversations that took  
21 place. Defendants further failed to inform Plaintiff of any duty of confidentiality on her part.  
22 Any disclosure of confidential information was caused by Plaintiff's detrimental reliance on  
23 these omissions. Thus, Defendants are estopped from seeking any relief because of their  
24 omissions.

25 **THIRD AFFIRMATIVE DEFENSE – DURESS**

26 Plaintiff hereby incorporates by reference the allegations contained in paragraphs 1-55  
27 and 128-161 of her Complaint (Dkt. No. 1). Defendants obtained Plaintiff's consent to the  
28 Second Contract by actions that constituted menace. These actions include but are not limited to

1 using battery, sexually battery, psychological coercion, threatened abuse of legal process, and  
 2 threats of physical harm. In addition, Defendants through their acts created an illegal economic  
 3 compulsion by imposing illegal “debts” upon Plaintiff and such acts constitute economic duress.  
 4 Defendants may not recover under the Second Contract because assent to that contract was  
 5 obtained through duress.

#### 6 **FOURTH AFFIRMATIVE DEFENSE – UNDUE INFLUENCE**

7 Plaintiff hereby incorporates by reference the allegations contained in paragraphs 1-55  
 8 and 128-161 of her Complaint (Dkt. No. 1). By their actions, Defendants placed Plaintiff in a  
 9 state of psychological and physical distress. Defendants exercised undue influence in obtaining  
 10 Plaintiff’s assent by taking a grossly oppressive and unfair advantage of her distress. Defendants  
 11 may not recover under the Second Contract by reason of undue influence.

#### 12 **FIFTH AFFIRMATIVE DEFENSE – FRAUD IN THE INDUCEMENT**

13 Plaintiff hereby incorporates by reference the allegations contained in paragraphs 1-31  
 14 and 84-105 of her Complaint (Dkt. No. 1). Defendants obtained assent to at least the first  
 15 employment agreement that she signed by means of fraud as alleged in Plaintiff’s Complaint.  
 16 For this reason, Defendants may not recover under this contract by reason of fraud in the  
 17 inducement.

#### 18 **SIXTH AFFIRMATIVE DEFENSE – MISTAKE**

19 Plaintiff hereby incorporates by reference the allegations contained in paragraphs 1-31  
 20 and 84-105 of her Complaint (Dkt. No. 1). Plaintiff was mistaken as to material facts on which  
 21 the contracts were based, including but not limited to certain conditions of her employment.  
 22 Defendants had reason to know of Plaintiff’s mistake. For this reason, the contracts between the  
 23 parties are voidable by Plaintiff.

#### 24 **SEVENTH AFFIRMATIVE DEFENSE – CONSENT**

25 By their acts and omissions, Defendants consented to any alleged public disclosure by  
 26 Plaintiff of any conversations. For example, Defendants would speak in Plaintiff’s presence.  
 27 Defendants never informed Plaintiff that any conversations with Plaintiff or between Defendants  
 28

1 were private. In addition, Defendants never took steps to prevent Plaintiff from discussing any  
2 such conversation.

### 3 **EIGHTH AFFIRMATIVE DEFENSE – PRIVILEGE**

4 Plaintiff's disclosure of information, if any, was privileged because, for example, any  
5 such communications were made among interested parties. Further, Plaintiff was privileged to  
6 communicate any private information for use in judicial proceedings and to officials as  
7 authorized by law, including, but not limited to, for the purpose of reporting crimes, such as  
8 those related to human trafficking.

### 9 **NINTH AFFIRMATIVE DEFENSE - PUBLIC INTEREST**

10 Public disclosures, if any, of private information by Plaintiff were reports of events of  
11 immediate public interest. Any events on which Plaintiff reported were newsworthy because  
12 they were reports of both past and current criminal activities, including but not limited to crimes  
13 related to human trafficking. For these reasons, any alleged public disclosures made by plaintiff  
14 were protected.

15 Dated: April 22, 2011

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

17 By: /s/ Matthew R. Reed  
Matthew R. Reed (mreed@wsgr.com)

19 Attorneys for Plaintiff  
JANE DOE

### 22 **DECLARATION OF CONSENT**

23 Pursuant to General Order 45, the undersigned certifies that concurrence in the filing of  
24 this document was obtained from each of the other signatories.

26 Dated: April 22, 2011

By: /s/ Tracy D. Rubin  
Tracy D. Rubin